

09/930.007
60246-141**REMARKS**

Claim 1 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Winter (US Patent No. 5,696, 045) in view of Scholl (US Patent No. 3,648,768). Claim 1 recites the step of expanding a tube. Neither Winter nor Scholl teaches expanding a tube. Therefore, the combination of the references does not teach, suggest or disclose the claimed invention. Applicant respectfully requests that the rejection be withdrawn.

Claims 3, 5, 6, 21, 22 and 24-27 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Winter in view of Scholl, Johnson (US Patent No. 3,426,841) and Nakagawa (US Patent No. 4,362,688). The Examiner contends that Winter teaches norbornene polymer, Scholl teaches extruding tubes, Johnson teaches u-shaped tubes, and Nakagawa teaches blow molding. The Examiner contends that the claimed invention would be obvious in view of the combination of the cited references. Applicant respectfully disagrees.

Scholl teaches a heat exchanger 4 produced in one piece by extrusion that includes a plurality of tubes 2 connected to each other by connecting webs 3. The tubes 2 and the webs 3 are integrally formed (column 1, lines 30 to 34) and extruded in one piece to provide stability. Because the heat exchanger 4 is formed as an integral unit, there is no reason or motivation to blow mold the tubes 2. It would not be possible to blow mold the tubes 4 after the extrusion of the integrated unit because the tubes 2 are fixed together by the webs 3. Blow-molding would disturb the webs 3. Therefore, there is no motivation to blow mold the tubes 2 of the heat exchanger 4 of Scholl because of Johnson and Nakagawa. The claimed invention is not obvious, and Application respectfully requests that the rejection be withdrawn.

Claims 4, 10, 11 and 23 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Winter in view of Scholl, Johnson, Nakagawa and Togashi (US Patent No. 4,245,697). Claims 10, 11 and 23 have been cancelled. Claim 4 depends on patentable independent claim 1 and is allowable for the reasons set forth above. Scholl teaches against expanding the tubes 4. Therefore, adding Togashi to the combination still does not render the claimed invention obvious. Applicant respectfully requests that the rejection be withdrawn.

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Claims 10, 11 and 23 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Winter in view of Johnson, Nakagawa and Togashi. Claims 10, 11 and 23 have been cancelled.

Claim 1 stands rejected under 35 U.S.C. 103 (a) as being unpatentable over Winter in view of Rhodes. Neither Winter nor Rhodes teaches a heat exchanger that exchanges heat between combustion product produced by a burner and a fluid. Winter does not disclose any type of heat exchange. Rhodes teaches a heat exchanger used to solar heat swimming pool water. The dark surface of the heat exchanger heats water as it flows through the heat exchanger to heat water in the pool. Neither reference teaches a heat exchanger that exchanges heat between combustion product produced by a burner and a fluid. Therefore, the combination of the references does not teach the claimed invention. Claim 1 is not obvious.

Claims 1, 3-6, 10, 11 and 21-27 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Winter in view of Rhodes and Nakagawa. Claims 10, 11 and 23 have been cancelled. Nakagawa teaches a tube, but does not disclose a heat exchanger. Therefore, even if Nakagawa is combined with Winter and Rhodes, the combination does not teach the claimed invention because none of the references teach exchanging heat between combustion products and a fluid. The claimed invention is not obvious.

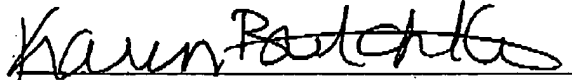
Claims 6, 11 and 27 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Winter in view of Rhodes, Nakagawa and Johnson. Claim 11 has been cancelled. Again, none of the references teach a heat exchanger that exchanges heat between combustion products produced by a burner and a fluid. Therefore, the combination of the references does not teach, suggest or disclose the claimed invention. The claims are not obvious for the reasons set forth above.

Thus, claims 1, 3-9, 21, 22, 24 and 28-34 are in condition for allowance. The Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds, P.C. \$110.00 for a one-month extension of time. If any additional fees are due, however, the Commissioner is authorized to charge Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C., for any additional fees or credit the account for any overpayment. Therefore, favorable reconsideration and allowance of this application is respectfully requested.

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Respectfully Submitted,

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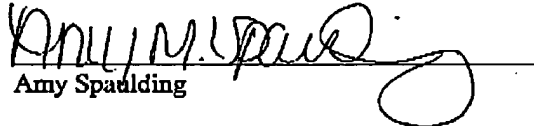
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CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, (703) 872-9306 on October 14, 2004.



Amy Spaulding